



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Tuesday, 8th March, 1949

OFFICIAL REPORT

CONTENTS

	Page
Motion re : Aims and Objects— <i>Contd.</i>	13—24

Published by the Manager of Publications, Government of Pakistan, Karachi
Printed by the Asstt. Manager, Governor-General's Press, Pakistan, Karachi
1949

Price : 5 annas

Copies of the Debates of the Constituent Assembly (Legislature) and the Constituent Assembly of Pakistan are obtainable on sale from the Manager, Governor-General's Press and Publications, Government of Pakistan, Karachi.

CONSTITUENT ASSEMBLY OF PAKISTAN

Tuesday, the 8th March, 1949

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Six of the Clock, in the Evening. Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

MOTION *RE* : AIMS AND OBJECTS—*Contd.*

Mr. Bhupendra Kumar Datta (East Bengal : General) : Sir, I beg to move :

“ That the paragraph beginning with the words ‘Whereas sovereignty over the entire universe’ and ending with the words ‘is a sacred trust’ be omitted.”

Sir, let me make it clear at the outset that I am not moving this amendment because I happen to be in the Opposition. I am moving it in no spirit of opposition ; nor am I moving it as a member of the minority community. Whatever the minorities are to get under the constitution is indicated in the substantive clauses of the Resolution. Sir, I feel, even if I were among the majority in the House, both by religious and political persuasion, I would move this amendment at this hour of the day.

Sir, we are here by the will of the people of our newly-won independent State of Pakistan to draw up a constitution for its future governance. Although all powers of an independent State emanate from the sovereign powers of its people, certain laws, rules and regulations must guide and control the relations between the people and the State. Such laws, rules and regulations have in the modern world come within the domain of matters, political. The relations between a State and its citizens may be, and have been throughout the ages, of diverse forms, but whatever the forms, they are subjects properly of politics. On the other hand, the relation between man and God comes within the sphere of religion. In all ages, there have been men and women who have believed that not a grass grows, not a leaf falls, not a star shows itself except by the will of God. Similarly, whatever takes place there in human affairs is guided and controlled by God. Many in this House, I have no doubt in my mind, do believe that we could not be assembled here except by the will of the Creator. But even if they do believe it, they go about their business, even about the business of this House, with that tacit, albeit, deep faith, with that unexhibited background of the mind—they go about it in all devoutness, all humility, without making a flourish of it.

Thus even in a world where vast numbers of men had a more living faith than today in the omnipresence and omnipotence of God, they found it more convenient, more suitable, more methodical to assign proper spheres to their relation with their Maker and to their relation with their ruling power or governing apparatus.

Nay, Sir, let me go further. Politics and religion belong to two different regions of the mind, even if it be held that these two regions are inter-related by the presence of God, or even if, say, by the unity, integrity or indivisibility of the human mind or human personality. For the special study, development and working of each region, we get them more conveniently separated. Thus separated—even without denying the unifying bond either of God or of the human personality—politics comes within the sphere of reason,

[Mr. Bhupendra Kumar Datta.]

while religion within that of faith.

The two—reason and faith—may blend together perfectly. But we allow each to work separately in order that each may grow to its fullest maturity so that a higher synthesis of the two may be attained—a mellower blending. Even in the evolution towards that ultimate end, the two may be working hand in hand but unobtrusively.

We know, Sir, whenever either has become obtrusive at the cost of the other, either in individuals or in groups, convulsions have taken place—convulsions, that in the case of groups, have caused infinite human misery, that have flung States asunder, that have debased men. We need not look to Europe in the Middle Ages or for the other side of the picture to the Worship of Reason during the French Revolution. We may look to various chapters of the history of this sub-continent. I need not mention periods. Even two years earlier, we did not behave as if we were rational human beings. We so behaved because on each side, faith became predominant over reason, what normally should have remained unobtrusive became obtrusive.

I feel, Sir, in this House I am treading on exceedingly delicate grounds. But let me put it to you, Sir, in all humility, whatever relation most of us may think or feel, subsists between us and our Maker, or between this great State and its people and God Almighty, need we be obtrusive with it, need we make a flourish of it on this occasion when we have met here for a political purpose—for framing the constitution of the State?

Politics, as I have said, Sir, belongs to the domain of reason. But as you intermingle it with religion, as this Preamble to this nobly conceived Resolution does, you pass into the other sphere of faith. The same is done in the paragraph on "Sovereignty" on page 13 of the 1st volume of Select Constitutions of the World, circulated by the Constituent Assembly Office. Thereby, on the one hand, you run the risk of subjecting religion to criticism, which will rightly be resented as sacrilegious; on the other hand, so far as the State and State policies are concerned, you cripple reason, curb criticism. Political institutions—particularly modern democratic institutions—as we all know, Sir, grow and progress by criticism from broader to still broader basis. As long as you remain strictly within the region of politics, criticism may be free and frank, even severe and bitter.

But as you bring in religion, or things as matters of faith, you open the door ajar for resentment of criticism. You then leave it to absolutism to fling it wide open. Sir, I feel—I have every reason to believe—that were this Resolution to come before this House within the life-time of the Great Creator of Pakistan, the Quaid-i-Azam, it would not have come in its present shape. Even with you, Sir, the Honourable Mover of this Resolution at the helm of affairs in the State, I have no fear that criticism will be stifled or absolutism will find a chance to assert itself.

But, Sir, we are framing a constitution, which will outlive us, may be, even many of our succeeding generations. So, as far as human reason can guard against it, let us not do anything here today that may consign our future generations to the furies of a blind destiny. May be, may God forbid it, but some day, perhaps even within our lifetime—extremely troublous times as we live in—a political adventurer, a Yanshikai, or a Bachcha-i-Sakao may find a chance to impose his will and authority on this State. He may find a justification for it in this Preamble. To the people of our State, he may justify his claim on the clause in it that refers to the delegation of the Almighty's authority to the State through its people. He has only to forge a further link and get it delegated through the State to himself and declare that he is the Ruler of Pakistan, anointed by his Maker. }

Besides, Sir, shall we not be prudent to avoid the deification of the State that the Preamble implies? In recent history, Hitler did it. But I am sure, Sir, the Honourable Mover of this Resolution found no merit in that act of Hitler's. Nor the world very much appreciated it. And at the hour when we have come so very near to the rest of the world, we, in this House, shall not be wise to ignore it.

In the next place, Sir, though I am genuinely ashamed of it, let me frankly confess that I am totally unacquainted with the tenets of the great religion to which the majority of my colleagues in this House belong. Many years ago I had once to pass three years in a West Punjab prison. There with the help of some books and some available persons, including the Superintendent of the Prison, a devout Muslim, I tried to get at the quintessence of Islam. But, I admit, the task proved formidable to me.

I was told that to understand Islam properly, I must study the *Shariat*. It was also told that of the different schools of *Shariat*, the *Hanifite* one alone consisted of 14 large volumes in stiff Arabic. I cannot say if all this information given to me is correct. Even if it is partially correct, it should set us thinking of the implications of the 'limits' set out in this Preamble to the authority to be exercised by the State that our constitution will usher into existence. They appear to be appalling in their vagueness and generality apart from our ignorance of them.

Sir, I have no feeling of uncertainty or political insecurity as long as the present guides of our State are there to guide the deliberations of our State affairs. But, as I learnt from those teachers of mine in the West Punjab prison, they were reluctant to call Muslims some of those whom we find the wisest of our administrators here today. One of them characterised even one of the translations of the Holy Quran by a Muslim divine that I happened to buy as un-Islamic.

Sir, I was not surprised. As we all know, all our religious scriptures—the scriptures of all the religions of the world and the literatures that grow around them—are subject to different interpretations by different theologians and divines. It, therefore, becomes a difficult matter when you speak of those 'limits' prescribed by the Almighty. They remain subject to interpretations and being there in the very Preamble of the Objectives Resolution of our constitution, will remain liable to variations, liberal or rigid, from time to time by different authorities and specialists.

I know, Sir, even our mundane constitutions and laws are subject to variations by the interpretations of different constitutional and legal authorities. But the situation is wholly transformed, I submit, Sir, when things pass from the region of reason and experience to that of faith and revelation.

I tried to follow closely the interpretation given by the Honourable Mr. Liaquat Ali Khan to this Preamble and his great assurances held out to the minority sections among the Muslims and the non-Muslim minorities. But the very acceptance after the demise of the Quaid-i-Azam of this Resolution with this Preamble is to me symptomatic of a rising tide. Have we not reason to apprehend that the spirit of this Preamble will work far more powerfully than all the noble assurances of the Honourable Mover and all the saving clauses provided in the Resolution and the Constitution Act itself?

We are before the bar of the world opinion in a fast changing set of human affairs. In that setting, I am reminded of the argument of one of our prominent administrators here, when, in discussing the Resolution on the realisation of *Zakat*, he urged that the old-world taxation structures did not fit in with

[Mr. Bhupendra Kumar Datta.]

modern States systems. Sir, I plead that with the Preamble to the Objectives Resolution guiding us in our State affairs, we shall constantly be confronted with such problems, may be in much more irresistible forms, for instance, in the possible situation of a demand for the institution of the Caliphate or, say, for the majority community, for the introduction of the *Muhtasib* system or even for the abolition of all banking system.

Mr. President, from what I understood from our Prime Minister's statement yesterday, the constitution that will follow from this Preamble is going to be an experiment in the World State Systems. Just now we have got the States of the world divided into two broad categories—the parliamentary democracy and the economic democracy. Ours is going to be the third system, which we may characterise, from the Honourable Mover's conception of it, as Islamic Democracy. That is to say, we propose to stand apart from the two other groups of States, may be not diplomatically but as a different State system, and continue our experiment in isolation from them. I do not know, for good or for evil, if we shall not thereby be throwing a challenge to the world—the world that at the moment looks to be on the brink of a great cataclysm. Even there, I am not sure, if the other Islamic countries who are our neighbours will tread the same path as ourselves or how far their internal or external commitments may allow them to be in line with us. Our other neighbour, the Indian Union, whether wisely or otherwise, is committed to evolve, for the present at least, a secular parliamentary democracy. All these factors I should urge upon the wise Mover of the Resolution to reflect upon before he demands the Resolution to be passed by the House with the Preamble under discussion.

Sir, let me pass on to a minor aspect—just now no more than a speck on the horizon. Subject to the law of the growth of all human organisations, you will find, on analysis, the great Muslim League Organisation, which is controlling the destinies of the nation today has passed the peak point of its rise and growth, consolidation and solidarity, as the Indian National Congress there in India. The Muslim masses once evinced attachment to the Congress. But that was in 1920-21. Since then, if the educated youths among the Muslim community have shown any attachment towards any political or revolutionary party besides the Muslim League, it is the Communist Party. With its glamour of an international organisation, functioning more or less secretly, it naturally attracts the educated youths. And what the educated youths think today, the masses will think and feel tomorrow, particularly in their appalling conditions of living.

These communists, Sir, honestly believe that religion in general is the opiate which is intended to suppress popular aspirations. To such agents of a new order of society of their dream, the present Preamble to the Objectives Resolution will be a mighty weapon against the constitution itself, which, whatever its shape, they will indiscriminately characterise as reactionary. And these communists are not a factor to be lightly brushed aside today at least in the Orient.

To me, Sir, all religions have made great contributions towards human civilization. They have helped to drag mankind out of a primordial state of subordination to instinct and baser passions. After rendering this inestimable service to various sections of humanity, they have now come, even through deadly conflicts, to a common world platform. Here mankind is just now busy evolving, even while devoutly adhering and remaining wholly loyal to their respective religions, a common human religion. That religion, let me repeat, does not negate your or my religion but merely constructs a super-structure on those solid foundations. That religion to my mind can thus be put in a nutshell: Make yourself good—as good as you possibly can, and make your neighbour happy—as happy as you possibly can.

Sir, the first condition precedent to all happiness is freedom. And this freedom means, not merely freedom from the imposition of my will and authority, but also of my thoughts and ideas, of my beliefs and dogmas. Sir, we are today framing a constitution for a great State not merely for those of us sitting in this House but for the vast numbers outside in the country and even vaster numbers of our future generations, who will live their lives under world conditions which are not going to stay, but which will change and evolve from year to year, nay, from day to day. The ideal method of ruling today is that you must rule the least. But here, I am afraid, you begin to rule by the imposition of your thoughts and beliefs on your neighbours of today and by the imposition of the thoughts and beliefs of today, which are more suited to the needs of today, on the men of tomorrow. And in the wake of the imposition of thoughts and beliefs is bound to follow—even in spite of yourself—the imposition of will and authority, which in the field of administration is another name for rule by force.

I desire from the core of my heart that we lay down here a constitution for a great, prosperous and progressive Pakistan, all of whose present and future citizens shall live happily and look back on this day, when we in this House took wise counsels in the interest of our ever-evolving structure of society. I, therefore, appeal to this House, Sir, let us not bind those vast numbers, present and future, to our conceptions of perfection and happiness. I further urge on the Honourable Mover of the Resolution, for whose generous, far-sighted and perfectly rational outlook we entertain such deep feelings of admiration and respect, to agree to withdraw this Preamble which is not an essential part of the Resolution before the House.

Mr. President : Amendment moved :

“ That the paragraph beginning with the words ‘ Whereas sovereignty over the entire universe ’ and ending with the words ‘ is a sacred trust ’ be omitted.”

Prof. Raj Kumar Chakraverty (East Bengal : General) : Sir, I beg to move :

“ That in the paragraph beginning with the words ‘ Whereas sovereignty over the entire universe ’ for the words ‘ State of Pakistan through its people ’ the words ‘ people of Pakistan ’ be substituted.”

So that if my amendment is accepted or put in the Preamble, the Preamble will read thus :

“ Whereas sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the people of Pakistan for being exercised within the limits prescribed by Him is a sacred trust.”

So instead of saying “ delegated to the State of Pakistan through its people ” I want to say “ delegated to the people of Pakistan ”.

Sir, I shall not quarrel with those who believe in the existence of the Almighty God and His sovereignty over the entire universe. Nor I shall quarrel with those who do not believe in the existence of any such mighty power. I believe in a State like ours and in the present-day world there will be scope for everybody whether he believes in God or not. For the purpose of my present amendment, I shall accept that there is the God Almighty and He has delegated His authority to some other authority or some other force below. The Preamble says that He has delegated His authority to the State of Pakistan through its people. It means that the State is supreme over the people. Whereas my amendment says that He has delegated His authority to the people of Pakistan. In other words, the people are supreme and the State comes next. That is the difference, as I understand it, between my amendment and the wording in the Preamble.

[Prof. Raj Kumar Chakraverty.]

My reasons are these. First come people and then comes the State. A State is the organized will of the people, a State is formed by the people, guided by the people and controlled by the people. That is a fact today. But as the words stand in the Preamble, it means that once a State comes into existence it becomes all-in-all. It is supreme, quite supreme over the people. It means, as the wording stands, that it can wield its authority in any way it likes, of course under God. That is my objection. A State is the mouthpiece of the people and not its master. The State is responsive to the public opinion and to the public demand. But as the Preamble stands it need not be responsive to the public demand and public opinion. That is the danger and I want to eliminate that danger. Therefore, I want to substitute the authority as "delegated to the people" instead of "delegated to the State". I want the House to realize that the State is for the people and not the people for the State. Therefore, Sir, the authority of the people should be supreme over that of the State and that is what my amendment assures. With these words, Sir, I move my amendment.

Mr. President : Amendment moved :

"That in the paragraph beginning with the words 'Whereas sovereignty over the entire universe' for the words 'State of Pakistan through its people', the words 'people of Pakistan be substituted.'"

Mr. Prem Hari Barma (East Bengal : General) : Mr. President, Sir, I move :

"That in the paragraph beginning with the words 'Whereas sovereignty over the entire universe', the words 'within the limits prescribed by Him' be omitted."

Sir, with the deletion of the words 'within the limits prescribed by Him' the paragraph will read thus :

"Whereas the sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised is a sacred trust."

Sir, if we retain the words, the paragraph will indicate that the authority which God Almighty has delegated to the State of Pakistan through its people is confined to certain limitations. What these limitations are, is not stated in the paragraph.

Each one of the paragraphs of the Objectives Resolution should be self-explanatory. One is not to look elsewhere for any elucidation or meaning of any of these paragraphs of the Objectives Resolution. Had the limitations stated in the paragraph been of universal knowledge to all, then retention of the words would have been appropriate. The Objectives Resolution is intended for clearly stating the aims and objects on which the constitution of Pakistan will be based. If the Honourable the Mover has in his mind any limitations stated in the Holy Quran or any other scripture of Islam, then those limitations are known to Muslims only. The Objectives Resolution is not meant only for the Muslims but it is intended for non-Muslims of Pakistan also, as this Objectives Resolution will be binding on both the Muslims and non-Muslims of Pakistan.

Sir, what a man does or thinks, it is only to the extent to which God Almighty has ordained. No human being can do anything beyond the wishes of God Almighty. Therefore, it is unnecessary to state the extent of any limitations prescribed by God Almighty. If the words are retained, it would imply that a man can go beyond the wishes of the Almighty God which, I am sure, no believer in God will admit. Therefore, I do not find any utility for retaining the words 'within the limits prescribed by Him'. I hope the Honourable the Mover and the House will not have any objection to accept the amendment.

Mr. President : Amendment moved :

“ That in the paragraph beginning with the words ‘ Whereas sovereignty over the entire universe ’ the words ‘ within the limits prescribed by Him ’ be omitted.”

Prof. Raj Kumar Chakraverty : Sir, I beg to move :

“ That in the paragraph beginning with the words ‘ This Constituent Assembly ’ after the words ‘ independent ’ the word ‘ democratic ’ be inserted.”

So that with the amendment, the paragraph will read thus :

“ This Constituent Assembly representing the people of Pakistan resolves to frame a constitution for the sovereign, independent, democratic State of Pakistan.”

Sir, I take it that this paragraph states the character of the constitution that we shall have. In the first paragraph of the Preamble we have been told that the authority which God has delegated to the State of Pakistan for being exercised within the limits prescribed by Him is a sacred trust, and this paragraph proposes to give us the character of the constitution. It says that the constitution would be a sovereign constitution, it will be independent, but the word ‘ democratic ’ is not there. I want to add the word ‘ democratic ’ in this connection, just after the word ‘ independent ’. My arguments will be very short. I consider the description of the constitution in this paragraph is not all perfect. It is not the complete description. The word ‘ democratic ’ should have been here. While telling about the constitution, we should tell the public and the world that the constitution or the form of Government that we shall have, will be of this kind or that kind. Whether the Government will be ruled by one man or it will be ruled by a few persons or the Government will be in the hands of many persons, we should state clearly. It may be monarchy ; it may be despotism ; it may be oligarchy ; or it may be democracy. I believe that our Government will be a democratic one, but that is not stated here. That is my complaint and that is why I move the amendment.

Sir, today, there is a great unrest throughout the world and you know the reasons of this unrest. One of them is that the common men—ordinary people—have no voice in the administration of their Government. They are the producers of the means of our livelihood. They are the workers on the fields and in the factories and unless voice is given to them in the affairs of the State, this unrest of the world will not subside. Up till now, of all the forms of Government that have been evolved, democracy with all its imperfections is the best sort of Government. Therefore, Sir, we ought to put the word ‘ democracy ’ here, so that we might cure the world of all the unrest and of all the undesirable elements that have crept into our administration. If the word ‘ democratic ’ is put here, the Resolution will go before the world with a message of hope, with a message of cheers that we are going to have a rule by the people, a Government of the people, for the people and by the people. No doubt, Sir, in the fourth paragraph which says that “ the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed ”, the word ‘ democracy ’ occurs, but I submit that in that paragraph the word ‘ democracy ’ is used in a very vague and loose sense and that the principle of democracy is to be applied generally in all our institutions, in all our affairs of life, so in this paragraph, where we are going to characterize the constitution of this State, I want to clinch the issue and say definitely now and here that we shall have a democratic form of Government and no other.

Sir, I find that some of the phraseology of this Resolution has been taken from the Preamble in the Irish Constitution. I mention in this connection the fact that in the fifth clause of the Irish Constitution, it says that the Constitution will be not only a sovereign and independent, but it will also be democratic. So if precedent has any value, I submit it before the House for consideration. We might very well consider if the word ‘ democratic ’ should not

[Prof. Raj Kumar Chakraverty.]

be added here just as it has been done in the case of the Irish Constitution. With these few words, I move my amendment, which is a very short one.

Mr. President : Amendment moved :

“ That in the paragraph beginning with the words ‘ This Constituent Assembly ’, after the word ‘ independent ’ the word ‘ democratic ’ be inserted. ”

Mr. Kamini Kumar Datta (East Bengal : General) : Mr. President, Sir, I move the following amendment :

“ That after the paragraph beginning with the words ‘ This Constituent Assembly ’, the following new paragraphs be inserted :—

‘ WHEREIN the National Sovereignty belongs to the people of Pakistan ;

‘ WHEREIN the principle of the State is Government of the people, for the people, and by the people ’.”

In explaining my reason for this amendment, I should state at the very outset that consistently with the Preamble, my amendments can find a place and with reasonableness. In the Preamble it is said that the sovereignty over the entire universe belongs to God Almighty alone and then, Sir, it goes further and says that the authority which He, *i.e.*, God has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him, is a sacred trust. But in the whole of the Resolution there is no clarification of the point in whom actually in the functioning of the constitution—the very basic factor to be considered—does the actual sovereignty lie. In the actual functioning of the constitution whose will would be supreme? Therefore, to make it clear I have proposed that these two amendments should be added so that the basic principle of the constitution as to its actual functioning may be clarified and may be clearly understood by the whole world. Of course, Sir, in connection with this I may state that I had another amendment also which has already been moved.

I mean Amendment No. 5 that in the paragraph beginning with the words “ This Constituent Assembly representing ” after the word “ independent ”, the word “ democratic ” be inserted. While making statement about these amendments for the addition of the two new paragraphs I would also like to include whatever I had to say about my other amendment that the expression “ democratic ” also be added after the words “ sovereign independent ”. Now the object of my amendment I have explained at the very outset. I would like to say something now because I think that the additions of the two paragraphs would really constitute the very pivot of the constitution. In understanding the constitution and its actual functioning we ought to have a clear concept of the pivotal fact as to in whom the real power lies. Sir, I may be a little long—although it is never my habit to be long and I have never been so all my life—but I would try to explain what I do really mean.

Now, Sir, an Objectives Resolution is a message defining the intention as to what we propose to do. No doubt it is not a part of the constitution itself but it is an assurance that we shall adhere to certain fundamental propositions which are laid down in this declaration. All Governments, in fact, are the expression of the will of the people. Maximum satisfaction of the legitimate aspirations of a society is indicated in the framework of the constitution of a State. The basic principle of the constitution of a State must be such as will help to make it a virile member amongst the comity of nations. In framing the constitution there should also be careful recognition of new interests and new world forces. Every constitutional system is of evolutionary growth. It cannot be of a permanent character from the most ancient times. A conflict of the old with the new may sometimes be inevitable. The economic pressure

of modern age and the new world forces may make the ancient system of constitution and the rules of Government inappropriate and inadequate to maintain the required social order. Contact with the realities is inevitable and we have to face the realities of the present day. The sovereign independent State of Pakistan is to frame its own constitution. We are on the threshold of it. The eyes of the whole world are upon us and the world will judge us how we intend to build up the State. We intend to build it as a State which will not be in conflict with the forces of the world. Its problems are also peculiar. As I have already said the world forces and the economic pressure cannot be ignored. The problem of majority and minority no doubt requires a happy, equitable solution but I would say the constitution to be framed is of an indivisible Pakistan, not for the majority or for the minority. It will be the constitution for the *people* of Pakistan who are determined to make Pakistan a happy and prosperous State and make contributions to the happiness of humanity. I, myself, consider the question of majority and minority, Sir, to be of a very insignificant character. The minorities, it is said often, must be given some rights. If I would be asked 'what right do you want?' I will say the first elementary right which I want is the ability to fight for Pakistan, for the defence of it. (*Applause*). It is a just right which every minority can claim and ought to claim. (*Repeated applause*.) The basic fundamental principle of the constitution must be to make the people understand it as government by the people, of the people and for the people. No equivocation is permissible therein. There should not be left any scope for any equivocation there. It must be made clear. It is a constitution meant for the people of Pakistan—Muslims or non-Muslims. As has been said, I must say the expression is a happy one, in the Preamble of the Resolution itself, that the Almighty *Allah* has delegated to the State of Pakistan through its *people*. It has not been limited to the followers of any one faith but to anyone and everyone who claims to be a citizen of Pakistan.

Sir, from the statement which the Premier, in moving the resolution, has made according to my understanding of it, the following facts and pronouncements among others on the polity of Pakistan emerge out. Of course, I must say it is my reading of his pronouncements :

1. The Preamble of the resolution deals with a frank and unequivocal recognition of the fact that all authority must be subservient to God.

2. In accordance with the spirit of Islam the Preamble fully recognises the truth that authority has been delegated to the *people* irrespective of whatever faith they may follow, and to none else and that it is for the people to decide who will exercise that authority.

That is how I understood the pronouncements. The State shall exercise its authority through the chosen representatives of the people. Thus, in his wording, this is the very essence of democracy, because the people have been recognised as the recipients of all authority and it is in them that the power to wield it has been vested. I would have been happier if there had been more clarification on this matter because I consider it to be very important. When we use the word 'democracy' in the Islamic sense it pervades all aspects of our life, it relates to our system of Government and to our society with equal validity. I am not a Muslim, but what I understand by this is that the system of Government is also intended to be democratic. Islam recognises no distinction based upon race, colour, or birth. Minority does not live on sufferance. Minorities are the sons of the soil. They have a right to be here and to have a share in the administration as anybody else. Of course, I state here, I am an old man on the eve of my life, but still I dream of the days to come when this trouble of minority and majority will vanish from this country and we shall

[Mr. Kamini Kumar Datta.]

give our credentials to the world that we are Pakistanis and nothing else. Everyone will be equal before the law but this does not mean his personal law will not be protected. We believe in the equality of status and justice.

Then he goes further and says in his statement—and to which I attach great importance—so far as political rights are concerned everyone will have a voice in the determination of the policy pursued by the Government and in electing those who will run the State; so that they may do so in the interests of the people. He goes further and says “that we want to base our polity upon freedom, progress and social justice”. “Protection of interests of minorities”—this is a problem of the whole world. I wish if the world gets sick of this idea of minority and majority. Then he says some thing about the social fabric of the society, that “the exploitation by the vested interests of wealthy classes will not be tolerated”. But still it seems that they are very powerful in both the Dominions—not in one only—under the present constitution. “Economy will be built up seeking better distribution of wealth and the removal of want.” I think I have been quite clear to the Honourable Prime Minister and that is what I understood from his pronouncements on which the country would rely. If I am wrong I may be corrected. But I should say, I would have been much happier if the statement had been more clarified. A firm, bold, definite, unequivocal proclamation of the political, economic and social principles of the constitution of Pakistan as a democratic State, with all powers vested in the people, would help in laying down a sound basic foundation of the constitution. I would have been happier to find and to have this basic principle in the Resolution giving a picture of the future constitution to be framed. The proclamation must be as that of a democratic State with all powers vested in the people. Though supreme sovereignty rests in God, God does not rule directly. His authority is delegated to the people of Pakistan. So in actual functioning of the State national sovereignty belongs to the people of Pakistan and no section of the people nor any individual may arrogate to himself the exercise of that sovereignty. The people have to exercise the right of sovereignty through its chosen representatives. It is a Government of the people, for the people and by the people. The pronouncement and exposition of the Honourable the Prime Minister is to be considered in the light of the principles laid down above. The people of the minority communities in Pakistan are the sons of the soil. They are a component part of the people of Pakistan as an individual entity. They have no separate existence. The interpretation of the Islamic principle based upon ancient historical facts which may have no analogy to the present existing environments will not be helpful.

What I am going to state next may seem to be somewhat of a character that may sound somewhat discordant to what I have already said. While making my subsequent statement I wish to make it clear that I am not afraid of any propaganda. I know how to face it? I know that the real minds of those leaders who are in charge of the administration of the people are not really in sympathy with these ideas, but as these ideas are being propagated it is my duty to bring to the notice of the leaders of the majority community certain facts. In this connection I may point out a school of ideology and thought with a different concept. I give below only a concise statement of their pronouncement. They promulgate as follows :

- (1) God only is the real Sovereign and others are merely His subjects.
- (2) All legislative power too vests in God.
- (3) Islam is not democracy.

I have read it in the printed books and I was astonished to find it that Islam is not democracy and they have given a reason for it. They say that democracy is the name given to that particular form of Government in which sovereignty

ultimately rests with the people, in which legislation depends both in its form and content on the force and direction of public opinion and laws are modified and altered to correspond to changes in that opinion. There is no such thing in Islam, which, therefore, cannot be called democracy in the true sense of the term.

(4) Those who do not accept Islam—an astounding proposition—are not entitled to any voice in shaping the policy of the State. They can live within the confines of the State as subjects (*Dhimmis*).

(5) They will not in any case be allowed to influence the policy of the State.

I know that this may be the idea of those people who are living several centuries back. I have full confidence in the leaders of Pakistan and they may not be influenced by that idea. But as I know the country, I am in contact with the people—and I am not one of the big people—I know how these ideas are spread and the ideas create an impression not only in the minds of the Muslims but also in minds of non-Muslims. You can easily imagine how much dismayed the minority community will be if they think it really means the future of the constitution. So, I would say that the position taken by such a standpoint ought to be publicly clarified. I would again repeat as one of Pakistanis and with some experience in public life too that these pronouncements and this sort of standpoint taken by one school of thought ought to be clearly explained to the people and it ought to be brought home to the people that this is not really what the Islamic principle is.

Now, in this connection I may state to those who hold such a view the policy of all the Muslim States of the World. There are States where the Muslims preponderate, but there is also a strong minority. They may really be called the Muslim States; as, for example, Iraq. Through the courtesy of the Secretariat I have been supplied with the constitutions of these States and I have taken pains to go through them, because I thought it my duty to know what is really the constitution of these Muslim States of the world. In Iran, under Articles 26, the powers of the realm are all derived from the people and the fundamental law regulates the employment of those powers. In Article 8 of the same constitution it is said that the people of the Iranian Empire are to enjoy equal rights before the law. Then, coming to Iraq, I find that Article 19 of the constitution says :

“ The sovereignty of the Constitutional Kingdom of Iraq resides in the people. ”

I only wish, as I said, that such a clear pronouncement was also made by the constitution-makers of Pakistan. Then, Article 6 of Iraq says :

“ There shall be no differentiation in the rights of Iraqis before the law, whatever differences may exist in language, race or creed. ”

Then, as to Turkey, Article 3 of the Constitution says :

“ Sovereignty vests absolutely in the nation ”.

Article 23 of the Constitution of Egypt says :

“ All power emanates from the Government. It is exercised in the manner established by the present Constitution. ”

I think I have exhausted really the list of the really Muslim Powers. There only remains Afghanistan which practically has no constitution at all. It is absolute monarchy.

The social order is maintained on the basis of these eternal principles of justice, liberty and equality. It is necessary that the contrary notions to which I have made the reference should be neutralised. They may not be beneficial either to them or to the State or to the people of the country. They ought to be made to understand that it is not wise to talk of things like this. My amendments are

[Mr. Kamini Kumar Datta.]

based on the principle of sovereignty resting with the people enunciated above and I am able to inform the House that they find complete support from the exposition of the principles of the constitution made by the Honourable the Premier. Of course, I have got several amendments to them, but I will not refer to them now. But I must speak on minor amendments also later on. I am really anxious for these amendments because they go to the very essence of the matter. I can tell the House that those who belong to our school of thought believe that they are the people of Pakistan and they form part of Pakistan. They have no eyes towards any other place and they sincerely desire that the cardinal principles of the constitution must be such as to inspire the people of the country, whether Muslims or non-Muslims, in such a manner that every one of them may think : " I am ready to dedicate all my own for Pakistan. "

Mr. President : Amendment moved :

" That after the paragraph beginning with the words ' This Constituent Assembly ', the following new paragraphs be inserted :

WHEREIN the National Sovereignty belongs to the people of Pakistan ;

WHEREIN the principle of the State is Government of the people, for the people, and by the people ' . "

The Assembly, then, adjourned till Four of the Clock, in the Evening, on Wednesday, the 9th March, 1949.